



State of Arizona
Office
of the
Auditor General

PERFORMANCE AUDIT

**DEPARTMENT
OF
PUBLIC SAFETY**

LICENSING BUREAU

**Report to the Arizona Legislature
By Debra K. Davenport
Auditor General**

**May 2001
Report No. 01-10**

The Auditor General is appointed by the Joint Legislative Audit Committee, a bipartisan committee composed of five senators and five representatives. Her mission is to provide independent and impartial information and specific recommendations to improve the operations of state and local government entities. To this end, she provides financial audits and accounting services to the state and political subdivisions and performance audits of state agencies and the programs they administer.

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DEBRA K. DAVENPORT, CPA
AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

WILLIAM THOMSON
DEPUTY AUDITOR GENERAL

May 15, 2001

Members of the Arizona Legislature

The Honorable Jane Dee Hull, Governor

Colonel Dennis Garrett, Director
Department of Public Safety

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Department of Public Safety's Licensing Bureau. This report is in response to a June 16, 1999, resolution of the Joint Legislative Audit Committee. The performance audit was conducted as part of the Sunset review set forth in A.R.S. §41-2951 et seq. I am also transmitting with this report a copy of the Report Highlights for this audit to provide a quick summary for your convenience.

This is the fifth in a series of reports to be issued on the Department of Public Safety.

As outlined in its response, the Department of Public Safety agrees with 17 of the 18 recommendations. The Department does not agree with the recommendation that the Legislature should consider transferring the federally mandated firearm background clearance check to the FBI. The Department indicates that it is working to obtain access to additional sources of information, such as mental health records, that the FBI does not have access to. The Department believes that if it gets access to this additional information, it will be able to provide better background check services than the FBI.

My staff and I will be pleased to discuss or clarify items in the report.

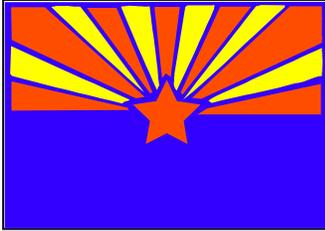
This report will be released to the public on May 16, 2001.

Sincerely,

A handwritten signature in cursive script that reads "Debbie Davenport".

Debbie Davenport
Auditor General

Enclosure

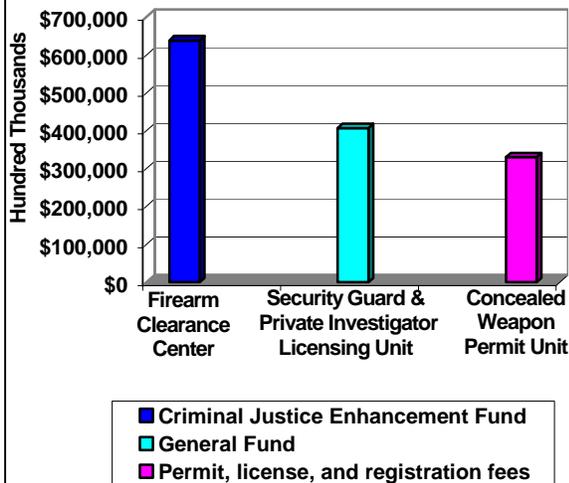


Program Fact Sheet

**Department of Public Safety
Licensing Bureau**

Services: This audit focuses on three of the Licensing Bureau’s four units: **1) *Firearms Clearance Center***—performs background checks to determine the eligibility of individuals wishing to purchase a firearm; **2) *Security Guard and Private Investigator Licensing Unit***—regulates security guard and private investigator employees and the agencies that provide those services; and **3) *Concealed Weapon Permit Unit***—issues concealed weapon permits to qualified applicants, and licenses instructors and training organizations that provide the required training.

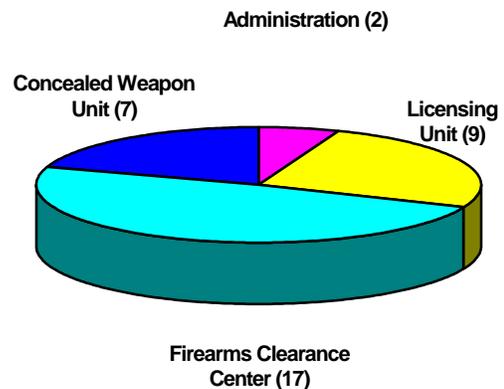
Primary Program Revenue Sources:
(estimated fiscal year 2001)



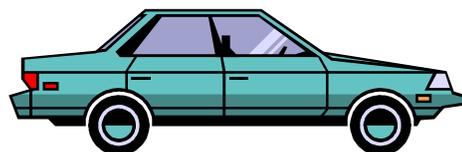
The Security Guard & Private Investigator Licensing Unit collects fees which help offset the cost to the General Fund. In fiscal year 2001, DPS estimates that it will remit \$361,700 in fees or about 89 percent of the amount of its General Fund appropriation for this unit.

Facilities: The Licensing Bureau’s functions are performed at the DPS Phoenix office and an additional DPS location in Tucson. These sites are state-owned.

Personnel: 35 (fiscal year 2001)



Equipment: The Bureau uses six cars, which are owned by DPS. These vehicles are primarily used when conducting statewide audits, investigations, and inspections associated with the units’ regulatory functions.



Goals and Performance Measures:
(fiscal years 2001—2003)

Goals: The Bureau has 3 goals and 11 performance measures. The goals are:

1. To provide professional development opportunities to employees and clients.
2. To improve efficiency and effectiveness in administering mandated programs.
3. To improve customer service.

Adequacy of Goals and Performance Measures:

The Licensing Bureau is a subprogram of the Criminal Justice Support Division and therefore has relatively few performance measures. DPS has developed only two performance measures specific to the Bureau: percentage of employees offered training and percentage increase in employee satisfaction. Since the units within the Licensing Bureau perform such unique functions, they have developed a few additional individual performance measures. However, more complete measures are needed. These additional performance measures should address each unit's specific responsibilities and should include measures of input, output, outcomes, efficiency, and quality. To assist in developing additional measures, DPS may want to consider using the set of common inspection and regulation performance measures outlined in the State's Strategic Planning Guidelines, since the Licensing Bureau's functions are regulatory in nature.

SUMMARY

The Office of the Auditor General has conducted a performance audit of the Department of Public Safety's Licensing Bureau as a part of a Sunset review of the agency. This audit was conducted pursuant to a June 16, 1999, resolution of the Joint Legislative Audit Committee and was conducted under the authority vested in the Auditor General by Arizona Revised Statutes (A.R.S.) §41-2951 et seq. This is the fifth in a series of eight audits of the Department of Public Safety.

The Department of Public Safety's (DPS) Licensing Bureau is part of the Criminal Justice Support Division, which provides regulatory, support, and other services essential to promoting public safety in Arizona. This audit focuses on three of the Bureau's four programs: the Firearms Clearance Center, which determines an individual's eligibility to purchase a firearm; the Security Guard and Private Investigator Licensing Unit, which regulates security guard and private investigator agencies and employees; and the Concealed Weapon Permit program, which issues permits to individuals qualified to carry concealed weapons in Arizona. The fourth unit, Access Integrity, will be included in the audit of DPS' Criminal Information Services Bureau.

Arizona Could Save \$650,000 Annually by Allowing FBI to Conduct Background Checks (See pages 7 through 13)

The Legislature has the option of transferring the background check function to the FBI.

The Legislature has the option of allowing the Federal Bureau of Investigation (FBI) to perform the federally mandated firearm background check function. The federal Brady Handgun Violence Prevention Act of 1994 requires that handgun, long gun, and pawned gun purchasers undergo a background check to determine whether they are legally allowed to buy a firearm. States initially had to conduct these checks for the federal government, but in November 1998, were given the option of transferring this responsibility to the FBI. Currently, the FBI conducts all back-

ground checks for 24 states and some of the background checks for 11 other states. Arizona is 1 of only 15 states that have chosen to retain the responsibility for conducting all background checks.

FBI could offer effective service.

The Legislature should consider transferring the background check function to the FBI. Having DPS conduct the checks provides few significant benefits beyond what the FBI can offer and will cost the State about \$650,000 in fiscal year 2001. Auditors determined the FBI could provide effective background checks in part by analyzing a random sample of purchases denied by DPS.¹ In over 95 percent of these cases, the FBI would have had the information needed to deny a purchase. In most of the remaining cases the denied individuals had active misdemeanor warrants, and federal databases generally contain information on only felony warrants. While having an active warrant disqualifies an individual from purchasing a gun, the misdemeanor warrants in these cases were for non-disqualifying offenses such as failure to appear, or writing bad checks. In addition, the FBI more effectively completes background checks on cases needing additional research, a problem area for DPS' program (see Finding II, pages 15 through 22). The FBI also offers more expanded hours than Arizona, so transferring the background check function should not inconvenience Arizona's firearms dealers or gun buyers.

If the Legislature decides that DPS should retain the background check function, it should consider providing DPS with the statutory authority to charge fees to cover its operating costs. Currently, DPS primarily uses Criminal Justice Enhancement Fund appropriations to pay for the program's operating costs. However, most other states performing background checks charge a fee to the licensed firearm dealer for each check, which typically ranges from \$5 to \$15.

¹ Auditors selected and analyzed 257 of approximately 7,400 purchases denied by DPS since November 30, 1998.

DPS Should Take Steps to Ensure That Only Eligible Individuals Can Buy Guns (See pages 15 through 22)

If the Legislature decides that DPS should continue the background check function, DPS should take several steps to ensure that guns are sold only to eligible persons. Although most background checks can be completed in minutes, some require additional research. For example, an individual's criminal history record may list an arrest for a disqualifying offense such as burglary, but the record does not indicate whether the person was convicted. Therefore, to determine the individual's eligibility to purchase a firearm, DPS must contact a state or local criminal justice entity, such as a court, to obtain additional information.

In accordance with federal law, states are allowed a minimum of three business days to conduct this research and DPS abides by this standard. Therefore, dealers may sell the firearm after three business days if DPS has not advised them that the individual is ineligible to purchase a firearm. During calendar year 2000, DPS was unable to complete background checks within the three-day time frame for about 5,000 people, or 50 percent of the cases requiring research. In these cases the dealer could legally sell the weapon to the individual. However, it is unclear how many of these individuals should have been prohibited from buying guns. A review of nearly 200 such cases in which DPS did not complete the background check for October 2000 found that more than one-third of the individuals had arrests and/or charges on their records for serious, disqualifying offenses, such as misconduct with weapons, sexual assault, child abuse, and conspiracy to commit murder.

Consistent with the intent of the law and practices in other states that conduct their own background checks, DPS needs to make several operational changes to ensure that ineligible individuals are not allowed to buy guns. For example, DPS should follow the practices of the FBI and other states by reassigning some of its existing staff to perform research as their primary function. In addition, DPS should also seek legislative authority that would allow it to extend the sale of a firearm from 3 to 30 days. Other states such as California, Georgia, and Tennessee have extended their

DPS was unable to complete the background checks for about 5,000 cases during calendar year 2000.

research time frames and will not authorize the purchase of a gun until the state confirms the buyer is eligible.

DPS Could Streamline Its Security Guard and Private Investigator Application Process (See pages 23 through 26)

By modifying its security guard and private investigator employee application practices, DPS could postpone its request for additional staff and improve its oversight role. DPS staff currently spend 15 to 20 minutes with each applicant reviewing their application form with them. In addition, the application review process is also inconvenient for applicants since DPS has only two licensing locations, Phoenix and Tucson, for the entire state.

DPS should change to a mail-in application process.

DPS should revise its administrative rules and practices to allow security guards and private investigators to submit applications by mail. Specifically, applicants and the agencies they work for could be responsible for obtaining a fingerprint card, and two passport-sized photos, and ensuring that the application is complete and contains sufficient information to show the applicant meets the minimum qualifications. Once the application packet was received, DPS would then determine if all the required information had been submitted and send the information to the DPS unit conducting the criminal history background check on the applicant. Auditors estimate that allowing security guards and private investigators to submit applications by mail could reduce DPS' application review processing time at least in half, or to ten minutes or less. This change could potentially postpone or eliminate the need for additional staff and allow current staff to dedicate more time to other regulatory functions, such as conducting site compliance checks and investigating complaints.

DPS Could Improve Its Security Guard Regulation Practices (See pages 27 through 32)

DPS could improve its regulation of security guards by making a few changes. To receive a security guard certificate, applicants must meet statutory requirements, and be sponsored by a DPS-

licensed security guard agency. Although security guards are not granted any law enforcement powers beyond those of an average citizen, it is the philosophy of DPS, as well as national security and law enforcement organizations, that security guards are in positions of trust and that untrained, unlicensed people are a potential threat to public safety. However, many of the current licensing processes are not consistent with that philosophy. For example, DPS issues a temporary permit, known as a provisional certificate, that allows applicants to work for up to six months before they receive training, or their criminal history background checks are complete. In addition, DPS does not conduct any further background checks during the three-year period that the security guard is certified.

DPS should take the necessary steps to enhance its regulation of security guards. Practices used by other states and recommended by national security associations, such as the National Association of Security and Investigative Regulators, are stricter than Arizona's. Consistent with other states and national associations, DPS should:

- Establish the type and amount of training required;
- Require applicants to receive training prior to receiving their provisional certificate;
- Require continuing education during the certificate period;
- Conduct state criminal history background checks before issuing a provisional certificate; and
- Conduct additional background checks annually, during the certificate period.

Some of these changes will require statutory revisions.

Other Pertinent Information (See pages 33 through 36)

During the audit, other pertinent information was gathered regarding DPS' Concealed Weapon Permit program, which began in fiscal year 1995. DPS issues permits to qualified individuals,

DPS should conduct regular state criminal history background checks on security guards.

Summary

approves the training organizations and instructors who provide mandatory concealed weapon permit training, and conducts investigations or audits of permit holders, instructors, and training organizations to ensure compliance with state concealed weapon laws and rules. During the program's first year, DPS issued over 27,500 permits. Further, as of the end of November 2000, 61,000 individuals had Arizona concealed weapon permits.

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INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit of the Department of Public Safety's Licensing Bureau as part of a Sunset review of the agency. This audit was conducted pursuant to a June 16, 1999, resolution of the Joint Legislative Audit Committee. This audit was conducted under the authority vested in the Auditor General by Arizona Revised Statutes (A.R.S.) §41-2951 et seq. This is the fifth in a series of eight audits of the Department of Public Safety.

Licensing Bureau Provides Arizona with Various Licensing and Regulatory Services

The Department of Public Safety's (DPS) Licensing Bureau is part of the Criminal Justice Support Division, which provides regulatory, support, and other services essential to promoting public safety in Arizona.¹ This report focuses on three of the Licensing Bureau's four programs: the Firearms Clearance Center; Security Guard and Private Investigator Licensing Unit; and Concealed Weapon Permit program.² Each of the three units performs a unique licensing or regulatory function and has distinct funding sources (see Table 1, page 3).

- **Firearms Clearance Center (17 FTEs)**—The Firearms Clearance Center (Center) determines an individual's eligibility to purchase a firearm by means of a national automated

¹ The Division also includes the following other Bureaus: Criminal Information Services, Fingerprint Identification, Information Technology, Operational Communications, Scientific Analysis, and Telecommunications.

² The Bureau also includes the Access Integrity Unit, which is responsible for training and auditing network users of the State's automated criminal justice information system, and will be incorporated into an Auditor General review of the Criminal Information Services Bureau.

instant background check system. This national system was established in federal law, which mandates that individuals purchasing a firearm from a licensed firearms dealer must undergo an instant background check. Similar to some states, Arizona has chosen to perform these background checks on behalf of the federal government, whereas the FBI performs the background checks for nearly half of the states. Background checks involve searching state and national criminal history databases, and other sources for information that would disqualify the individual from purchasing a gun, such as a felony conviction, active warrant, or misdemeanor conviction for domestic violence (see the Appendix, page a-i, for a listing of the applicable databases). During calendar year 2000, the Center processed about 127,000 background checks for Arizona's firearms dealers. The Center's estimated expenditures for fiscal year 2001 are approximately \$650,000, with monies from the Criminal Justice Enhancement Fund (CJEF) as its primary funding source.

- **Security Guard and Private Investigator Licensing Unit (9 FTEs)**—The Security Guard and Private Investigator Licensing Unit is responsible for regulating individual security guards and private investigators, and the agencies that provide these services. Regulating agencies and individuals involves determining each applicant's eligibility and investigating suspected illegal behavior of either employees or agency officials. At the end of fiscal year 2000, the unit reported that there were 208 licensed security guard agencies and 12,593 certified security guards, and 1,242 private investigator agencies and 2,143 private investigators. While the State's General Fund provides most of the unit's revenue, monies collected from application fees are remitted to the General Fund. The unit's estimated expenditures for fiscal year 2001 are approximately \$415,000.

- **Concealed Weapon Permit Program (7 FTEs)**—The Concealed Weapon Permit Program is responsible for issuing permits to individuals qualified to carry concealed weapons in Arizona. In addition, it approves training instructors and training organizations responsible for providing required concealed weapon permit training. The unit also conducts

Table 1
 Department of Public Safety
 Licensing Bureau
 Statement of Revenues, Expenditures, and Changes in Fund Balance¹
 Years Ended or Ending June 30, 2000 and 2001
 (Unaudited)

	Firearms Clearance Center		Security Guards and Private Investigator Licensing Unit		Concealed Weapon Permit Program	
	2000 (Actual)	2001 (Estimated)	2000 (Actual)	2001 (Estimated)	2000 (Actual)	2001 (Estimated)
Revenues:						
Appropriations:						
State General Fund	\$ 2,100	\$ 10,800	\$420,000	\$407,200	\$ 2,300	\$ 10,700
Criminal Justice Enhancement Fund ²	585,700	638,600				
Arizona Highway Patrol Fund ³			6,100	9,500		
Licenses and permits			361,700	361,700	453,070	330,000
Total revenues	<u>587,800</u>	<u>649,400</u>	<u>787,800</u>	<u>778,400</u>	<u>455,370</u>	<u>340,700</u>
Expenditures:						
Personal services and employee related	481,203	543,800	392,200	395,400	400,852	370,000
Professional and outside services	275		2,800	2,600	6,615	4,800
Travel	1,290	1,400	1,300	1,000	2,262	
Other operating and equipment	102,783	104,200	27,700	15,600	60,931	39,200
Total expenditures	<u>585,551</u>	<u>649,400</u>	<u>424,000</u>	<u>414,600</u>	<u>470,660</u>	<u>414,000</u>
Excess of revenues over (under) expenditures			<u>363,800</u>	<u>363,800</u>	<u>(15,290)</u>	<u>(73,300)</u>
Other financing uses:						
Reversion to the State General Fund			2,100	2,100		
Reversion to the Criminal Justice Enhancement Fund	2,249					
Remittance to the State General Fund			361,700	361,700		
Total other financing uses	<u>2,249</u>		<u>363,800</u>	<u>363,800</u>		
Excess of revenues over (under) expenditures and other uses					(15,290)	(73,300)
Fund balance, beginning of year					185,070	169,780
Fund balance, end of year	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$169,780</u>	<u>\$ 96,480</u>

¹ The Bureau's revenues and expenditures include an allocation of revenues and expenditures recorded in the Department's Joint Account. The Joint Account contains State General Fund appropriations and other appropriated monies, such as amounts from the Criminal Justice Enhancement Fund.

² Consists of fines and forfeits deposited in the Criminal Justice Enhancement Fund (CJEF) and appropriated to the Department. Unexpended CJEF monies are presented as a reversion to CJEF since any unexpended monies at year-end are subject to legislative appropriation in future years.

³ Appropriations to the Arizona Highway Patrol Fund consist of insurance premium taxes used to pay for eligible contributions to the Public Safety Personnel Retirement System. Source: Auditor General staff analysis of information provided by the Department of Public Safety.

investigations into alleged misconduct of permit holders, applicants, instructors, and organizations. During fiscal year 2000, the program processed over 10,000 initial and 7,200 renewal permits, and at the end of November 2000 there were over 61,000 active permit holders. Funding for the program is derived from permit application fees, which are transferred into a revolving fund. The program's estimated expenditures for fiscal year 2001 are approximately \$518,000.

Audit Scope and Methodology

Several methods were used to study the issues addressed in this audit, including:

- **Firearms Clearance Center**—Auditors reviewed national literature on the development and implementation of the national instant criminal background check system (NICS); and U.S. Code and Arizona statutes for gun requirements, including those for purchasing and possessing firearms. To determine whether the FBI could provide comparable service, auditors reviewed files from 257 of approximately 7,400 purchasers denied by DPS since November 30, 1998, to identify whether the FBI would have had access to the information necessary to deny the purchase. Auditors also reviewed information on cases requiring additional research during October 2000 to assess the Center's research and documentation efforts. Auditors contacted 10 of the 14 other states that perform all of their own background checks, and 4 of the 11 states that allow the FBI to conduct at least some of their state's background checks. States were contacted to determine how other states' programs operate and to identify best practices for performing and completing research.¹

¹ Those states contacted that perform all their own background checks were California, Colorado, Florida, Georgia, Illinois, Nevada, New Jersey, Pennsylvania, Tennessee, and Virginia. States contacted that have the FBI perform some of their background checks were Indiana, Maryland, Oregon, and Wisconsin.

- **Security Guard and Private Investigator Licensing Unit**—Auditors reviewed the unit’s policies and procedures, and applicable statutes and administrative rules, which mandate the licensing function. Auditors observed licensing processes and conducted interviews with management and staff. Auditors also reviewed agency documents that contained summary information on interviews conducted with security guard agencies, to better understand issues within the industry. Auditors analyzed best practices recommended by the International Chiefs of Police and the National Association of Security and Investigative Regulators (NASIR), and reviewed summary information on state regulation practices for security guard and private investigators compiled by the NASIR in its State Licensing Information publication. Auditors also researched licensing information from various state Web sites, as well as contacted officials from seven states, to gain a better understanding of how other states operate and obtain information about best practices.¹

- **Concealed Weapon Permit Program**—Auditors reviewed applicable statutes and administrative rules, and national literature that discusses the development of concealed weapon programs. Additionally, auditors observed activities for issuing permits, attended a training program DPS conducts for instructors, and conducted interviews with management and staff to become more familiar with the program’s operations.

This report presents findings and recommendations in four areas:

- The need for the Legislature to consider transferring the firearms clearance function to the FBI;
- The need for DPS to improve its ability to ensure that only eligible individuals are allowed to buy guns;
- The need for DPS to streamline its security guard and private investigator employee application process; and

¹ Licensing information was obtained from the following states’ Web sites: Arkansas, California, Connecticut, Florida, Georgia, Illinois, Nevada, New York, Oregon, Texas, and Utah.

Introduction and Background

- The need for DPS to improve its security guard regulation practices.

Additionally, this audit presents other pertinent information on the DPS' Concealed Weapon Permit program and its functions.

This audit was conducted in accordance with government auditing standards.

The Auditor General and staff express appreciation to the Director and staff of the Department of Public Safety for their cooperation and assistance during the audit.

FINDING I**ARIZONA COULD SAVE
\$650,000 ANNUALLY BY
ALLOWING FBI TO CONDUCT
BACKGROUND CHECKS**

The Legislature has the option of allowing the FBI to perform the federally mandated firearms background check function. While Arizona chose to retain this function in 1998, it yields few significant benefits beyond what the FBI can provide and will cost the State an estimated \$650,000 for fiscal year 2001. Therefore, the Legislature should consider transferring the background check responsibility from DPS to the FBI. If the Legislature decides that DPS should continue this function, it should consider providing DPS with statutory authority to charge a fee so that it can recover the cost for operating this federally mandated program.

**Individual States No Longer
Required to Perform the
Federally Mandated
Background Check**

The federal Brady Handgun Violence Prevention Act of 1994 (Brady Act) requires that individuals purchasing firearms from licensed firearm dealers undergo a background check by means of the national instant criminal background check system, known as NICS.¹ Initially, state or local governments were responsible for conducting their own background checks on handgun purchases only. However, beginning on November 30, 1998, the second phase of the Brady Act was implemented and background checks were also required on long gun and pawned gun

¹ Although the Brady Act uses the term “transfer” of firearms, “sale” or “purchase” are more common terms used to describe the exchange between dealer and buyer and are therefore the terms used in this report.

purchases. In addition, each state was also given the option of continuing to perform the background checks, or allowing the FBI to perform this function. Arizona chose to retain the responsibility and DPS' Firearms Clearance Center conducts the required check for individuals purchasing guns from federally li-

Item 1	Examples of Federal and State Gun Purchaser Disqualifiers
■	Under indictment for or convicted of a felony
■	Fugitive from justice (active warrant)
■	Convicted of a misdemeanor crime of domestic violence
■	Subject to a court restraining order
■	Unlawful user or addicted to illegal drugs
■	Dishonorably discharged from the Armed Forces
■	Illegal alien, or has renounced U.S. citizenship.
Source: 18 U.S. Code §922 (d) and (g), and A.R.S. §31-3101.6 and §31-3114(B)	

censed firearm dealers.¹ Completing a background check involves searching state and national criminal history databases, and other sources for information that would disqualify the individual from purchasing a gun. Such disqualifiers include felony convictions, active warrants, or misdemeanor convictions for domestic violence (see Item 1 above for a list of disqualifiers). Disqualifiers are established in both federal and state law, and Arizona's mirror those set forth in the Brady Act in nearly every respect.

People who want to purchase a gun from a licensed dealer must complete a purchase request form that asks for identifying information, such as their name, address, date of birth, and social security number.² In addition, the form asks them to answer

¹ Any business entity wishing to sell firearms must be licensed to do so by the United States Bureau of Alcohol, Tobacco, and Firearms (ATF). There are nearly 1,400 licensed firearms dealers in Arizona.

² Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Firearms Transaction Record Part I—over-the-counter form ATF4473.

other questions, such as whether they are currently under indictment, are legally in the United States, or have ever been convicted of a felony. The dealer either calls or faxes DPS with the identifying information and requests a background check. DPS performed about 127,000 checks in calendar year 2000.

Arizona's Participation Yields Few Benefits

Having DPS perform the background check on Arizona gun buyers does not yield any significant benefits, yet will cost the State an estimated \$650,000 in fiscal year 2001. It is unclear why Arizona chose to retain this function. However, 24 states allow the FBI to perform the entire background function for all firearm purchases and auditors' analysis suggests the FBI's services would be equally effective as DPS' function. Therefore, the Legislature should consider transferring the background check responsibility to the FBI. Transferring this function will require statutory change and coordination with the federal government.

Conducting background checks will cost \$650,000 in fiscal year 2001.

Arizona chose to perform its own background checks—Even though states were given the option of transferring the background check responsibility to the FBI in November of 1998, Arizona chose to retain this function. A review of legislative hearing minutes during 1998 provides little clarification on why Arizona decided to retain this function. However, there did appear to be some confusion or uncertainty as to whether Arizona was required to continue performing this function. Further, appropriation reports for fiscal years 1996 through 1999 contain language suggesting that retaining this function at the state level would eliminate the need for each of the 15 counties to individually develop, fund, and operate its own background check programs. These reports do not discuss the option of having the FBI take over this responsibility for Arizona. Additionally, retaining the responsibility was perceived as a convenience to Arizona's licensed firearms dealers, as they were already familiar with the process.

Twenty-four states have the FBI perform the entire background check function—Twenty-four states have chosen to have the FBI do all of their state's background checks. In addition, 11 states

Many states allow the FBI to conduct background checks.

have chosen to retain the background check responsibility for handgun purchases only, but have the FBI perform the additional checks. Interviews with state officials suggest that they did not take on the additional background check responsibilities because their state's statutes were never changed and/or they did not have the financial resources to complete the additional checks required under the second phase of the Brady Act. Arizona is 1 of only 15 states that have chosen to perform the background checks for all gun purchases.¹

FBI could provide Arizona with effective service—The responsibility for conducting background checks could be transferred to the FBI without reducing effectiveness. In theory, states may desire to complete their own background checks because they have established stricter gun laws than those outlined in the Brady Act or may have access to additional information not available to the FBI.² However, neither of these reasons appear to be important factors in Arizona's case.

To determine in part whether the FBI could provide comparable service, auditors reviewed a random sample of 257 purchases denied by DPS since November 30, 1998, to identify whether the FBI would have had access to the information necessary to deny the purchase. Among the 257 denied cases, auditors found only 12 cases in which the FBI may have approved the purchase. For 10 of these cases DPS denied the purchase because the individual had an active misdemeanor warrant, which is a disqualifier. The FBI may not have had this information because federal databases generally contain information on only felony warrants. However, the active misdemeanor warrants for these cases were for nondisqualifying offenses, meaning that once the warrants were resolved, even if the individuals were convicted of the offenses, they would not have been disqualified from purchasing a gun. For example, the warrants were for misdemeanor charges such

¹ Florida performs its own background checks on all firearm purchases, except for certain pawned firearm transactions. For example, when a pawned firearm is purchased back within 90 days, the broker may call either the state or the FBI for a background check.

² United States General Accounting Office (GAO), *Report to Congressional Requesters. Gun Control: Options For Improving the National Instant Criminal Background Check System*. Washington, D.C.: April 2000.

as failure to appear, writing bad checks, driving under the influence, and failure to pay a fine. The two remaining denied cases included one misdemeanor conviction from ten years ago, which is generally not contained on the federal databases, and one recent felony arrest and charge which had not yet been transferred to the federal databases.

In addition to providing comparable service on denied cases, the FBI could probably provide better service in other areas. Specifically, the FBI more effectively completes background checks on cases needing additional research by completing a higher percentage of checks within the minimum 3 days currently allowed by federal law, and by extending its research beyond the 3 days if necessary. Both of these are problem areas for DPS' program (see Finding II, pages 15 through 22, for additional information). Transferring the background check function to the FBI should also not inconvenience Arizona's firearms dealers or gun buyers, given that the FBI's program offers more expanded hours than Arizona, operating 17 hours a day, 7 days a week, except on Thanksgiving and Christmas.¹ Similar to the current process, Arizona's firearm dealers would use a toll-free number to phone the FBI program.

Transferring this function will require repealing statute and coordinating with the FBI— Transferring the background check function from DPS to the FBI will require the Legislature to repeal the Firearms Clearance Center's enabling statutes, A.R.S. §13-3114. In addition, the State would need to coordinate the transfer with the FBI. Although each state decides whether it will conduct its own background checks, the FBI requests a 60-day written notification from the states wishing to transfer the function. This allows the FBI time to prepare adequate staffing to handle the increased workload, become familiar with the state's gun laws and program, and to communicate the change to firearm dealers.

DPS should be involved in coordinating the transfer to ensure that other DPS units are not unnecessarily impacted by the

¹ DPS' Firearms Clearance Center is open 7 days a week: 12 hours on weekdays, and 9 to 10 hours on weekends. It is closed on 6 holidays, and has shortened hours on 6 other holidays.

change. Another unit in DPS also has some responsibility for re-searching incomplete criminal history information for the FBI now. Specifically, if the FBI is conducting a background check for another state and finds incomplete Arizona criminal history information, it contacts DPS' Criminal Information Services Bureau because DPS serves as the central point of contact for missing criminal history information. During a recent calendar year period, the Bureau completed about 1,700 such research requests for the FBI. DPS estimates that if the background check function is transferred to the FBI, this bureau's workload would increase by about 5,000 requests and cost about \$50,000 to complete. In auditors' discussions with the FBI, it indicated that the process it uses to complete its research on Arizona criminal history information, such as whether to have a central point of contact or use local entities, could be discussed and changed if necessary.

If DPS Retains Function, Fees Should Offset Operating Costs

If the Legislature decides to have DPS retain the background check function, it should consider providing DPS the statutory authority to charge fees. Most of the states that conduct their own checks charge a fee to licensed firearm dealers to help offset their program's costs. For example, among the 15 states that perform the background check for all gun purchases, Arizona is 1 of only 3 states that do not currently charge a fee.¹ Additionally, 8 of the 11 states that perform handgun checks only charge a fee. The fees charged typically range from \$5 to \$15 per background check. DPS currently funds the background check function primarily from its annual appropriated portion of Criminal Justice Enhancement Fund (CJEF) monies. However, if DPS was authorized to charge a nominal fee, such as \$5 to \$10 per background check, the fee revenue could cover Arizona's annual program cost.

Other states that charge fees have also established specific funds for the fees collected by the program. Therefore, the Legislature

Most states charge fees for conducting background checks.

¹ Colorado and Vermont are the other two states that do not charge a fee for conducting background checks on their state's firearm transactions.

should also consider providing DPS with statutory authority to establish a separate fund to account for the fees remitted to the program and to be used to cover the program's annual operating expenditures. If the Legislature provides DPS the statutory authority to charge fees, DPS should establish policies and procedures for collecting the fees from licensed firearm dealers.

Recommendations

1. To save the State about \$650,000 annually, the Legislature should consider transferring the responsibility of conducting firearm background checks to the FBI. This change would require repealing A.R.S. §13-3114 and coordination with the FBI.
2. If the Legislature decides that DPS should retain this responsibility, it should consider providing DPS the statutory authority to recover its operating costs by assessing a nominal fee.
3. If the Legislature provides DPS the statutory authority to establish a fee, it should also consider providing DPS with the authority to establish a separate fund to account for the fees remitted to the program, and to be used to cover the program's operating expenditures.
4. If the Legislature provides DPS the statutory authority to assess a fee for performing background checks, DPS should develop policies and procedures for collecting fees from licensed firearm dealers.



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FINDING II

DPS SHOULD TAKE STEPS TO ENSURE THAT ONLY ELIGIBLE INDIVIDUALS CAN BUY GUNS

If the Legislature decides that DPS should continue conducting background checks, DPS should take several steps to ensure that guns are sold only to persons who meet the law's criteria. During calendar year 2000, DPS was unable to effectively complete the background search within the allotted time for about 5,000 cases. Because the deadline could not be met, these people were able to purchase guns without DPS determining their eligibility to do so. Auditors' review of nearly 200 such cases for October 2000 showed that more than one-third of the cases in which DPS did not complete the background check involved people whose criminal history records showed arrests or charges for disqualifying offenses such as robbery, aggravated assault, or conspiracy to commit murder. DPS needs to make several changes to its processes to better ensure that it completes all background checks so that, consistent with the intent of the law, ineligible individuals are not allowed to purchase guns.

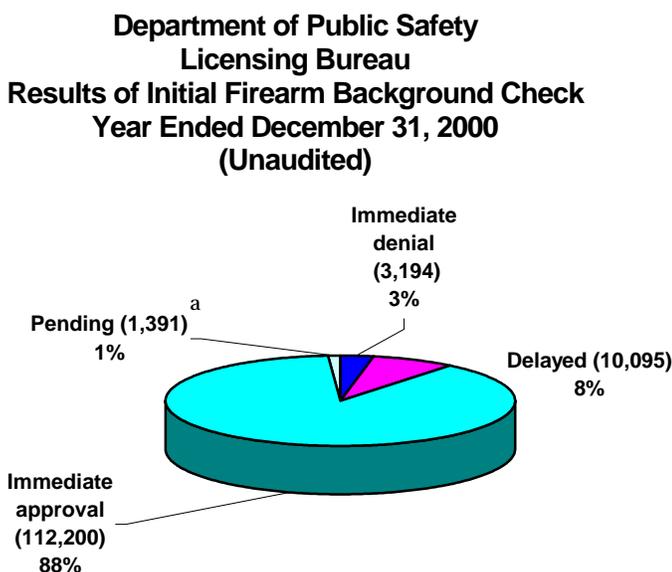
Incomplete Checks Increase Risk to Public Safety

DPS is not effectively completing all background checks within the allotted time. Most background checks can be completed quickly, but others require additional research to determine whether the individual is allowed to purchase a gun. However, during calendar year 2000, half of the cases that required additional research were not completed within the time allowed under federal law. When DPS does not complete its research within the allotted time, individuals who could have been disqualified may be allowed to buy guns.

Half of the cases requiring research proceed by default—During calendar year 2000, DPS did not complete the background check within three business days for half of the cases that required research. Most background checks can be completed in a

matter of minutes, but some require additional research. For example, of the approximately 127,000 checks conducted during calendar year 2000, 91 percent were immediately approved or denied. However, for 8 percent of the background checks, DPS had to delay the sale of the firearm to further research the individual's eligibility to purchase a gun (see Figure 1). The cases requiring additional research are known as delayed cases.

Figure 1



^a Cases result in a pending status when a computerized database is temporarily inaccessible. The background check is performed on these cases once the system becomes available.

Source: Auditor General staff analysis of daily background check statistics for 2000 provided by the Department of Public Safety.

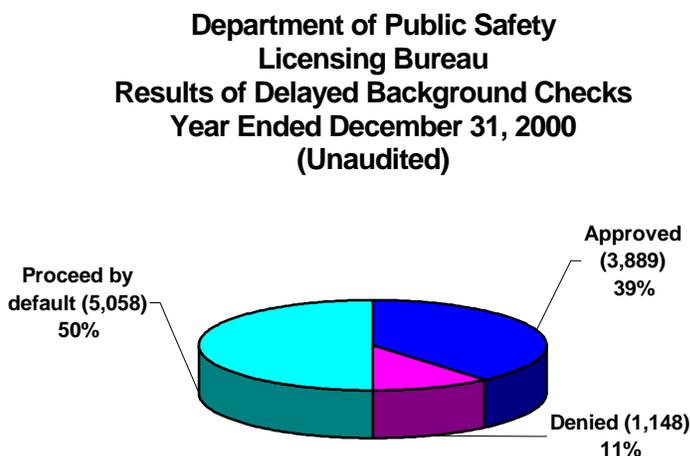
It is important to research delayed cases because the individuals who require research have information in their criminal history record to suggest that they may be ineligible to purchase a gun. For example, DPS needs to conduct research when an individual's record lists one or more arrests for a disqualifying offense but does not indicate whether the individual was convicted. Research typically involves contacting a state or local entity, such as a court, to obtain additional information. Pursuant to federal law, a minimum of three business days is allowed to conduct this research and DPS abides by these minimum standards. Therefore,

dealers are allowed to sell the firearm after three business days if they have not been advised by DPS that the individual is ineligible. These types of sales are known as default proceed cases.

During calendar year 2000, over 10,000 cases in Arizona required additional research. However, DPS was unable to complete the research within 3 business days for over 5,000 cases, or 50 percent of the cases requiring research, and the dealer was legally allowed to proceed with the sale (see Figure 2).

Ineligible individuals may be allowed to buy guns—When research is not completed, ineligible people may be allowed to buy guns. While it is unclear how many ineligible people in Arizona have purchased guns, according to FBI research, among the cases in which an individual’s arrest record may indicate potential disqualification but research cannot be completed within 24 hours, the individual is almost 20 times more likely to be an ineligible individual compared to transactions involving the average gun buyer. In addition, auditors reviewed nearly 200 default proceed cases for the month of October 2000 and found that more than one-third of the prospective gun buyers had previously been arrested and/or charged with serious disqualifying offenses, such as misconduct with weapons, sexual assault, child abuse, arson, robbery, aggravated assault, or conspiracy to commit murder.

Figure 2



Source: Auditor General staff analysis of monthly delayed case research statistics for 2000 provided by the Department of Public Safety.

Changes Are Needed to Increase the Number of Successfully Completed Background Checks

DPS needs to make operational changes to the background check program to better ensure that ineligible individuals are not allowed to buy guns. These changes should include reassigning some staff to ensure research is completed on delayed cases, initiating research earlier, and seeking legislative authority to extend the research time for hard-to-resolve cases.

Increase the emphasis on research by reassigning some existing staff—DPS could reduce the number of default proceed cases by dedicating some existing staff to the crucial role of research. Until March 2000, none of the 16 positions that perform background checks were assigned the specific responsibility of conducting research for delayed cases. Instead, they performed research only as time permitted.¹ Further, DPS' policy requires that a minimum of only one attempt be made to obtain additional information on cases requiring research.

DPS should reassign some staff primarily to conducting research on delayed cases.

In contrast to Arizona's operations, the FBI and other states place greater emphasis on research by dedicating some staff to conducting research. For example, 9 of the 14 states contacted dedicate at least 2 FTEs to completing research. In addition to reassigning some staff, DPS should also revise its policies to require more than one attempt to obtain additional information on cases needing research.

Initiate research efforts earlier, while building on previous research results—To improve its ability to complete background checks within the three-day period, DPS should begin research earlier and use the information from previously denied applications. Although there is nothing to preclude DPS from beginning research immediately, it typically does not begin research on delayed cases until the following day, and sometimes not until even the second or third business day. DPS could improve its

¹ Effective March 2000, DPS established a procedure to assign two to three staff a day to conduct research only.

chances of confirming a buyer's eligibility by instituting procedures for initiating research as soon as practical following the initial check.

DPS should initiate research efforts earlier.

As a first step in performing research, DPS should check its files on previously disqualified individuals. Although DPS maintains records on denied cases for a five-year period, it does not regularly check this information when conducting research on a new case. If the current buyer was previously disqualified, the information in their file could provide some guidance as to why he or she may need to be denied again. In addition, DPS may want to make a change to its computer system so that it will automatically alert staff when a prospective buyer was previously denied. Although management requested this change in 1996, it has not yet been made.

Several other states delay or deny purchases if eligibility cannot be readily determined.

Extend the research time for those hard-to-resolve cases—DPS should also seek legislative authority to extend the amount of time it is allowed to research and confirm a gun buyer's eligibility. Default proceed cases occur primarily because many states' automated criminal history records do not show the dispositions (acquittals or convictions) for arrests, and efforts to obtain such information take longer than three business days. Although the time frame for completing research is not addressed in Arizona statute, DPS abides by the Brady Act's minimum requirement of three business days. However, several other states that conduct their own background checks extend the research period or deny purchases if they cannot readily determine eligibility. For example, California, Georgia, and Tennessee will not authorize the purchase of a gun until the state confirms the buyer is eligible, regardless of how long it takes. Additionally, some states' statutes, such as Colorado, and Washington, allow them to deny an individual when the individual's criminal record contains a potentially disqualifying charge, regardless of whether the state can confirm that the individual was found guilty. Some examples of how states ensure that only qualified individuals are sold guns are noted below:

- ✓ **Colorado** can deny a purchaser with an open disqualifying arrest, such as a felony, even if the disposition cannot be obtained within three days, thus eliminating the need for additional time to further research the transaction.

- ✓ **Georgia's** regulations indicate that when a background check identifies potentially disqualifying charges, the gun dealer may not sell the firearm until being advised by the state that the purchaser is not prohibited.

- ✓ **Washington** state law allows up to five days to perform a background check. However, if available records indicate the prospective purchaser has an arrest for a potentially disqualifying offense, a hold for up to 30 days can be placed on the transaction to allow the state additional time to verify the purchaser's eligibility. If additional time is needed beyond 30 days, an extension can be sought through a judicial order.

FBI data suggests that allowing more time to research delayed checks would affect a relatively small portion (2 percent) of all transactions, yet a 30-day extension could reduce the number of default proceed cases by 77 percent. Furthermore, the U.S. Department of Justice has stated it would support changing the three-day requirement.

To ensure DPS can better meet the intent of the Brady Act and complete all background checks on prospective gun buyers, DPS should seek legislative authority to amend §13-3114 to allow it to delay the sale of a firearm up to 30 days. Statutory changes should also include direction on how DPS should handle cases where the necessary information cannot be obtained within 30 days, such as whether the case would be denied on potentially disqualifying information.

Improve procedures for proper interaction with licensed dealers, ATF, and gun buyers—DPS should also enhance other written procedures and provide staff proper instruction to better ensure that appropriate actions are taken on delayed and denied transactions. Specifically, DPS should develop or revise its procedures for:

- **Ensuring prompt communication**—DPS should develop procedures for communicating in a timely manner information on denied cases to licensed dealers. Although DPS' procedures indicate that the dealer should be contacted, they do

not specify that the contact be documented, or specify a time-frame for making the contact.

- **Notifying ATF immediately upon learning a disqualified person obtained a gun**—Currently there is no written procedure establishing a time frame for notifying the Bureau of Alcohol, Tobacco, and Firearms (ATF) when a disqualified person has been sold a gun. When DPS discovers that an ineligible person has been sold a firearm, DPS contacts ATF and ATF then takes the steps necessary to retrieve the firearm. The FBI's procedure states it will notify ATF within six to eight hours. However, a review of DPS' 22 documented contacts with ATF from December 1999 through October 2000 indicates that on at least one occasion DPS waited more than three weeks before notifying the ATF that a disqualified individual was sold a gun. In two other instances, DPS did not notify ATF for one week or more.

- **Responding to gun buyer's inquiries and appeals**—DPS should also develop administrative rules for handling inquiries and appeals by gun buyers whose purchases are delayed or denied. Statute allows DPS to adopt rules for establishing an appeals process to inform denied gun buyers of the basis for their denial. However, DPS has established only informal guidelines for how it will respond to gun buyers' inquiries. More inquiries may occur if the Legislature grants DPS the authority to extend the research time for hard-to-resolve cases. Therefore, DPS should develop administrative rules that outline the steps DPS will take, as well as what actions the gun buyer has available.

Recommendations

If the Legislature decides DPS should continue performing the background check function:

1. DPS should continue to allocate some of its existing staff positions to perform research as their primary responsibility on cases where DPS cannot immediately determine whether a person is eligible to purchase a gun.
2. DPS should begin research cases immediately or as soon as practical on cases that require additional research to determine whether an individual is eligible to purchase a gun.
3. DPS should use its files on previously denied cases to help it more efficiently complete its research.
4. DPS should make a change to its computer system so that it will automatically notify staff when a prospective buyer was previously denied.
5. DPS should seek legislative authority to allow it to delay the sale of a firearm from 3 to 30 days, and to indicate how it will resolve the cases that it cannot determine eligibility for within 30 days.
6. DPS should develop procedures specifying a time frame for contacting firearms dealers when research is complete, and documenting that the contacts have been made.
7. DPS should develop procedures for promptly notifying ATF when information indicates that an ineligible individual was sold a gun.
8. DPS should establish administrative rules for responding to delayed and denied gun buyers' inquiries and appeals.

FINDING III

DPS COULD STREAMLINE ITS SECURITY GUARD AND PRIVATE INVESTIGATOR APPLICATION PROCESS

By modifying its security guard and private investigator employee application practices, DPS could reassess the need for additional staff and enhance its oversight role for these professions. DPS' current practices are inefficient because they require personal contact with each applicant. DPS should change to a primarily mail-in application process, and devote more time to other regulatory functions, such as conducting compliance site visits and investigating complaints.

Security Guard and Private Investigator Employee Application Process Is Inefficient

Some of DPS' licensing processes are inefficient. During fiscal year 2000, DPS processed over 11,000 security guard and 950 private investigator employee initial and renewal applications. In addition, DPS processed 73 security guard agency and 526 private investigator agency initial and renewal applications. DPS is having difficulty meeting its workload demands. As a result, for fiscal year 2002 DPS sought an additional 5 FTE at an annual cost of over \$114,000.

One key reason DPS is unable to meet its current workload demands is because its application process for security guard and private investigator employees is inefficient. Although not required in statute, DPS' administrative rules stipulate that each applicant must apply in person. DPS explains that this practice enables it to obtain the applicant's fingerprints, photos, and signature, and to verify their identity. Specifically, DPS Licensing Unit staff spend approximately 15 to 20 minutes with each applicant reviewing the application for completeness, verbally verifying the contents of the application, and ensuring the applicant meets citizenship and age requirements. In addition, staff finger-

DPS' current application process requires 15 to 20 minutes of personal contact with each applicant.

print and photograph the applicant, collect the applicable fees, and manually prepare the appropriate certificate.

Besides being inefficient, the process is also inconvenient. It often requires significant travel for applicants because DPS has only two licensing locations in the State, Phoenix and Tucson.

DPS Should Streamline Its Application Process and Devote More Time to Oversight Functions

DPS should allow applications to be submitted by mail.

DPS should follow the practices used by other states and increase security guard and private investigator agencies' responsibilities in the employee application process. Streamlining the application process for security guard and private investigator employees could eliminate the need for additional staff without lessening DPS' regulatory role. In addition, DPS could also devote more time to other regulatory processes such as conducting compliance site inspections and complaint investigations.

DPS should streamline the employee application process—DPS should revise its administrative rules and practices to allow security guard and private investigators to submit applications by mail. Specifically, applicants and the agencies they will be working for should be responsible for ensuring that the application is complete and contains sufficient information to show that the employee meets the minimum qualifications. In addition, agencies should be responsible for ensuring that the employee obtains a completed fingerprint card from a local law enforcement agency and obtains two passport-size photos. This change in process should not place any unnecessary burden on the agencies, as the employee will have already provided much of the required information, such as a social security card, valid identification, and felony background information, when seeking employment. The agency or applicant should then mail the completed application, fingerprint card, photos, and applicable fees to DPS. DPS would then determine if all required information

has been submitted and pass the information onto the DPS unit that would conduct a criminal history background check on the applicant.

Changing to a mail-in process for security guard and private investigator employee applications is consistent with practices in other states such as Arkansas, California, Nevada, and Texas. Further, auditors estimate that allowing agencies to submit employee applications by mail could reduce the time DPS spends processing these applications at least in half, or to 10 minutes or less.

Mail-in application process could eliminate need for additional requested FTEs.

Change in application process could provide additional benefits—Streamlining the employee application process could also provide other benefits. First, changing to a mail-in application process could potentially eliminate the need for the 5 FTEs DPS requested for fiscal year 2002. Although DPS' request for additional FTEs was not granted, it should postpone future requests until a mail-in process is implemented and DPS can assess how this change impacts its workload. Second, this change would also allow DPS to spend more time on other regulatory functions. Because application review processing time may be cut in half, DPS could increase its oversight role by having staff conduct more site compliance checks. These site visits involve traveling to areas where employees are assigned and determining if the employees are in compliance with requirements such as carrying their registration certificate, as well as ensuring that no uncertified employees are working. DPS has also indicated that it would like to dedicate more time to investigating complaints and conducting proactive investigations. In DPS' fiscal year 2002 budget request, it reported an inability to conduct proactive investigations, largely due to the increased number of applicants and renewal applicants.

Recommendations

1. To increase its efficiency, DPS should change to a primarily mail-in application process for security guard and private investigator employees.
2. DPS should place a hold on future requests for additional staff until it has revised its process and reassessed its staffing needs.
3. DPS should use some of the resources freed by a more efficient licensing process to enhance its oversight role by performing tasks such as conducting regular site compliance visits and responding to complaints.

FINDING IV

DPS COULD IMPROVE ITS SECURITY GUARD REGULATION PRACTICES

DPS could improve its regulation of security guards by making a few changes that are consistent with practices in other states and recommended by national associations. First, DPS should seek legislative authority to amend its statutes to require security guard applicants to receive training before they receive a temporary certificate. In addition, before issuing temporary certificates and during the three-year certificate period, DPS should conduct state background checks.

DPS Regulates Security Guards

DPS' Licensing Unit is responsible for regulating the security guards employed by companies conducting business in Arizona.¹ Although security guards are not granted any law enforcement powers beyond those of an average citizen, it is the philosophy of DPS, as well as national security and law enforcement organizations, that security guards are in positions of trust and that untrained, unlicensed people are a potential threat to public safety. To receive a security guard registration certificate the applicant must meet statutory qualifications, such as age and criminal history requirements (see Item 2, page 28). In addition, applicants must be sponsored by a DPS-licensed security guard agency.

¹ Arizona does not regulate security personnel who are employed directly by proprietary businesses.

**Item 2 Examples of Security Guard
Applicant Qualifications**

- U.S. citizen or legal resident
- At least 18 years of age
- No current felony charges
- No convictions for crimes involving fraud, physical violence, illegal sexual conduct, or the illegal use or possession of a deadly weapon
- No convictions for drug offenses or theft within the past five years

Source: A.R.S. §32-2622(A).

DPS is statutorily authorized to issue the applicant a temporary permit, known as a provisional certificate, which is good for six months. During the six-month period, DPS completes a state background check and sends the applicant's fingerprints to the FBI for a federal background check. If the applicant's background check does not identify any disqualifying information, the applicant receives a security guard certificate that is valid for three years.

**Lack of Training Requirements
and Regular Criminal History Checks
Impacts Effectiveness**

DPS' current regulation practices for security guards are not as effective as they could be. Auditors noted the following problems:

- **Lack of training**—Provisional certificates are issued to applicants allowing them to work before they receive training. Applicants are currently required to complete training in specific topic areas before receiving their three-year certificate, but not before receiving their provisional certificate. In addition, the amount of training required for unarmed security guards, such as a minimum number of hours, is not specified in statute or rules. Finally, no continuing education is required during the three-year certificate period.

Provisional certificates are provided before applicants complete training or background checks.

- **Lack of background checks**—The provisional certificate is also provided before any criminal history background checks are completed. Although the federal check can take up to three months to complete, generally, a state background check can be completed in only a few days. However, even if the state background check identifies potentially disqualifying information, DPS does not always immediately act on the information. For example, auditors reviewed 32 licensing files and found that 16 provisional certificate holders had potentially disqualifying information in their state criminal history records. For each of these cases DPS failed to immediately take action even though the state background check identified arrest information for potentially disqualifying offenses, such as assault. Instead, it appears that DPS waited for the federal criminal history information to be returned, which often took two to three months, before taking action.

Further, DPS does not conduct any state background checks during the three-year period that the security guard is certified. For example, a registered security guard who was qualified at the time of receiving his certificate was later convicted of a sex offense. However, he continued to hold a valid security guard certificate because DPS was unaware of his conviction.

DPS officials indicated that they believe that provisional certificates were statutorily authorized because the security guard agencies often need to hire employees quickly to work at heavily attended one-time events, such as sporting events.

DPS Should Enhance Its Training and Background Check Requirements for Security Guards

DPS should take the necessary steps to enhance its regulation of security guards. Practices used by other states and recommended by national associations, such as the National Association of Security and Investigative Regulators (NASIR), are stricter than Arizona's. To better ensure that only qualified applicants receive and retain security guard certificates, DPS should make the following changes:

DPS should require up-front training and conduct background checks before providing provisional security guard certificates.

- **Require upfront training**—DPS should seek legislative authority to amend Title 32, Chapter 26, to require security guard applicants to receive training prior to receiving their provisional certificate. The International Chiefs of Police, as well as NASIR, developed best practice guidelines for the regulation of security officers that indicate that training should be completed before an application is submitted. The guidelines state that training offers greater public protection and can help law enforcement. For example, a security guard can be trained in how to preserve a crime scene before police officers arrive. California, Florida, New York, and Oregon require upfront training. In addition, DPS should specify in statute the minimum amount of training unarmed security guards should receive prior to obtaining their provisional certificate.

- **Require ongoing training**—DPS should also seek legislative authority to amend Title 32, Chapter 26, to require continuing education during the three-year licensure period. The International Chiefs of Police, as well as NASIR, recommend continuing and/or annual in-service training. Several states, including California, Florida, Nevada, Oregon, Tennessee, Utah, and Virginia, have instituted mandatory in-service/refresher training for armed and/or unarmed security guard personnel.

- **Conduct state background checks**—Before issuing provisional certificates and during the certificate period, DPS should conduct state background checks. These checks can be completed fairly quickly and would offer greater assurance that the security guard does not have a disqualifying criminal record prior to receiving a provisional certificate and while certified. A.R.S. §41-1713(A) and (B) was amended in April 2000 to allow DPS to conduct state criminal history records checks to update and verify the status of security guards. However, DPS has not yet implemented a mechanism for conducting these background checks.

States such as California, Florida, and Texas have implemented systems in which the licensing entity is listed as an interested party with their state's department of public safety and will be automatically notified if a current license holder is convicted of a

felony in their state. For example, if a security guard in Texas is convicted of a crime, the Texas Commission on Private Security is automatically notified. DPS could consider implementing a similar action or, at a minimum, annually searching the State's criminal history information system for any potentially disqualifying information. To conduct initial state background checks on security guard applicants, DPS may want to follow the process used by its Concealed Weapon Permit program. Program staff enter the applicant's identifying information, such as name and social security number, into a database that is searched against the State's criminal justice information system for disqualifying information overnight, and produces a report on applicants with potentially disqualifying information. DPS could also consider seeking an additional \$18,000 to \$20,000 in funding to purchase a fingerprint card imaging system. This system copies applicants' and certificate holders' fingerprints into the State's automated fingerprint information system and uses the fingerprints to search for disqualifying information. The system can also be enabled to notify DPS when a certificate holder is arrested.

Study Committee Established

During the 2001 legislative session, the Legislature established a Private Investigator and Security Guard study committee. This committee, consisting of legislative representatives, the Governor, the Director of DPS, and public members, is directed to examine issues relating to private investigators and security guards, such as:

- Standards for hiring and training;
- Fees for licensure and registration; and
- Problems and benefits of provisional certificates.

Because this report makes recommendations regarding security guard training and provisional certificates, DPS should share this report with the study committee.

Recommendations

1. DPS should seek legislative authority to amend Title 32, Chapter 26, to:
 - a. Require security guard applicants to receive training before they receive a provisional certificate;
 - b. Establish the minimum amount of training required; and,
 - c. Include continuing education requirements for security guards.
2. DPS should complete state criminal history background checks before it provides provisional security guard certificates, pursuant to the authority granted under A.R.S. §41-1713.
3. DPS should complete state criminal history background checks on security guards at least annually during the three-year certificate period, pursuant to the authority granted under A.R.S. §41-1713.

OTHER PERTINENT INFORMATION

During the audit, other pertinent information was gathered regarding DPS' operation of the Concealed Weapon Permit program.

DPS Operates the Concealed Weapon Permit Program

DPS issues concealed weapon permits to Arizona residents or U.S. citizens who meet statutory requirements.

The Concealed Weapon Permit program began in 1994 when legislation was passed allowing Arizona residents to obtain concealed weapon permits. DPS administers this program by issuing permits to qualified individuals; approving the training organizations and instructors who provide the mandatory concealed weapon permit training; and conducting investigations and audits of permit holders, instructors, and training organizations to ensure compliance with state laws and rules.

Concealed weapon permits issued to qualified applicants—DPS issues concealed weapon permits to qualified Arizona residents or U.S. citizens. Prior to receiving a permit, an applicant must undergo a state and national background check. Using informa-

Item 3

Concealed Weapon Permit Requirements

- Must be an Arizona resident or U.S. citizen
- Must be at least 21 years of age
- Not under indictment or convicted of a felony
- Not suffer from mental illness or have been committed
- Not unlawfully present in the U.S.
- Satisfactorily completes a firearms safety-training program

Source: A.R.S. §13-3112.

tion contained on the application form and fingerprint card, DPS searches criminal history databases for information that would disqualify the applicant from receiving a permit, such as a felony conviction. Permits are valid for four years and cost \$50, which

includes \$24 for the FBI background check. In addition, applicants must provide documentation that they have completed a firearms safety training course. The training course for initial applicants is 16 hours and provides an overview of legal issues in the use of deadly force as well as instructions on weapon care and maintenance, marksmanship, and mental conditioning for the use of deadly force. Further, training participants are required to pass an exam that covers course material and show proficiency on the firing range. Permit holders wishing to renew their permits must undergo another background check and complete a four-hour refresher course that covers recent changes in Arizona's gun laws. While statute affords DPS 75 days to issue a permit, it typically takes only 10 to 20 days to complete the application process and issue a permit.

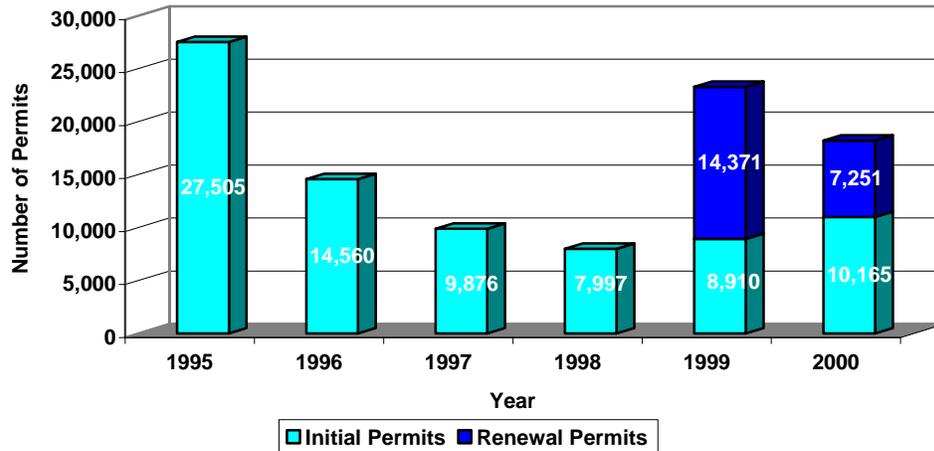
During the program's first year, fiscal year 1995, DPS issued more than 27,500 permits. Since then, the number of permits issued annually has declined significantly. However, beginning in fiscal year 1999 the program's workload increased, as DPS began issuing renewal permits. Nonetheless, the overall number of active permits has begun to stabilize, with approximately 61,000 active permits as of November 2000. Figure 3 (see page 35) illustrates the number of initial and renewal permits issued since the program's inception.

DPS has entered into reciprocal agreements with five other states.

In addition to issuing permits, statute allows DPS to enter into reciprocal agreements with other states that have concealed weapons laws substantially similar to Arizona's. These agreements allow each state's permit holders to carry concealed weapons in either state, as long as they abide by that state's gun laws. Forty-three states allow individuals to carry concealed weapons. Because Arizona's laws governing concealed weapon permits are generally more restrictive, Arizona has entered into agreements with only five states: Alaska, Arkansas, Kentucky, Texas, and Utah.

Figure 3

Department of Public Safety
Licensing Bureau
Initial and Renewal Concealed Weapon Permits Issued Annually
Years Ended June 30, 1995 through 2000



Source: Auditor General staff analysis of information in the Department of Public Safety's annual reports for 1995 through 2000.

Instructor and training organization approval—DPS is also responsible for approving the instructors and organizations that provide the required concealed weapon permit training courses. The instructor must meet the requirements for obtaining a permit and complete specific instruction from either the Arizona Peace Officer Standards and Training Board or from the National Rifle Association. Furthermore, as part of its application, a training organization must submit a lesson plan for DPS' approval. Statute requires that the training course address legal issues pertaining to the use of deadly force, weapon care and maintenance, mental conditioning for the use of deadly force, safe handling and storage of weapons, marksmanship, and judgmental shooting. Upon reviewing the organization's lesson plan, DPS will conduct a site visit to address any identified problems and discuss the program's expectations. As a means of keeping instructors up-to-date, DPS offers a workshop several times a year that provides instructors information on any changes impacting the concealed weapons laws, such as recent court rulings, and changes in statutes or administrative rules.

DPS monitors permit holders to ensure they remain qualified.

Investigations and audits—DPS conducts various administrative and criminal investigations to ensure permit holders, applicants, instructors, and training organizations are in compliance with state law and rules. Audits of instructors and training organizations entail announced visits by one of the two DPS-sworn officers assigned to the program to ensure instructors comply with statutory requirements and their established course outline. DPS also investigates consumer complaints about instructors or training organizations. Currently, DPS is pursuing legal action against two instructors who allegedly falsified documents indicating that participants completed the required training course when they had not. Additionally, DPS is taking corrective action against those permit holders who claimed to have attended the training. Lastly, DPS performs ongoing monitoring of all permit holders to ensure they remain qualified. Although an arresting law enforcement agency is required to report an arrest of a permit holder, this does not always happen. Therefore, the active list of permit holders is regularly searched against the State’s automated criminal history database to determine if any active permit holders have been arrested or convicted of an offense that would disqualify them from holding a permit. If any disqualifiers appear, DPS may either suspend or revoke the individual’s permit.

APPENDIX

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APPENDIX

Department of Public Safety Licensing Bureau Databases Searched During Firearms Background Checks As of December 2000

Federal Databases—Accessible by the FBI and other state law enforcement officials:

- ***National Crime Information Center (NCIC), Wanted Person File***—Contains records on individuals with an outstanding federal warrant or serious misdemeanor warrant; probation and parole violators; juveniles tried as adults; juvenile escapee, probation, or parole absconder or those charged with delinquency; temporary felony wanted persons where a warrant cannot immediately be obtained.
- ***National Instant Criminal Background Check System***—Contains records on individuals who abuse controlled substances, are dishonorably discharged, or have renounced their citizenship, and persons previously denied the purchase of a firearm but for whom disqualifying data are not contained in any other database file. Information is supplied by states and federal agencies, such as the Department of Veteran's Affairs and the State Department.
- ***Interstate Identification Index***—Contains criminal history records information such as name, physical description, identifying numbers, and fingerprint classifications. The name of the agency that maintains that criminal history record is also provided.

Arizona State Databases—Accessible by DPS' Firearms Clearance Center:

- ***Arizona Computerized Criminal History***¹—Contains Arizona arrest information and disposition information on offenders. Information is entered by the Arizona Department of Public Safety, Criminal History Records Unit from fingerprint arrest cards and disposition reports.
- ***Arizona Criminal Information Center, Computerized Wanted Persons File***²—Contains warrants held by Arizona law enforcement agencies.
- ***Offender-Based State Correction Information System***—Contains information provided by the Arizona Department of Corrections on persons currently and previously in prison or on parole.
- ***Sex Offender Registration and Notification File***—An index of convicted sex offenders registered in Arizona.

¹ Duplicates Arizona-based information in the Interstate Identification index.

² Records meeting NCIC criteria indicating out-of-state extradition are automatically forwarded for entry into the Wanted Person File.

Agency Response

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April 26, 2001

Ms. Debra K. Davenport, CPA
Auditor General, State of Arizona
Office of the Auditor General
2910 North 44th Street
Phoenix, Arizona 85018

Dear Ms. Davenport:

Enclosed is the Department's written response to the Auditor General's draft report of the performance audit of the Department of Public Safety Licensing bureau. Please do not hesitate to contact my office if you have any questions.

Sincerely,

Dennis A. Garrett, Colonel
Director

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Enclosures

GENERAL

The Arizona Department of Public Safety, Licensing Bureau, recognizes that audits and inspections provide a valuable means to evaluate Department operations from an external source and make recommendations for improvement. The following is in response to the information provided and recommendations made.

FINDING I

ARIZONA COULD SAVE \$650,000 ANNUALLY BY ALLOWING FBI TO CONDUCT BACKGROUND CHECKS

Recommendations

1. To save the State about \$650,000 annually, the Legislature should consider transferring the responsibility of conducting firearm background checks to the FBI. The change would require repealing A.R.S. §13-3114 and coordination with the FBI.

Response

The finding of the Auditor General is not agreed to and the recommendation will not be implemented.

In Arizona, if a juvenile is adjudicated delinquent, the person is prohibited from possessing or using a firearm for 10 years from the date of adjudication. The Department is working with Arizona Office of Courts (AOC) to obtain access to the Juvenile On-Line Tracking System (JOLTS) database. This database contains information supplied by county courts on juveniles (ages 8-17) who are “referred” to the juvenile court for delinquent acts. AOC is working on completing the programming necessary to make JOLTS information available statewide on the Arizona Criminal Justice Information System (ACJIS) network.

AOC is working on a statewide domestic violence data warehouse, which will house orders of protection, injunctions work-place violence injunctions and temporary orders of protection. The Department will pursue access to this information to be shared statewide with users of the ACJIS network. Currently orders of protection/injunctions meeting the National Crime Information Center (NCIC) entry criteria may be entered by law enforcement into NCIC Order of Protection Registry. However,

some orders of protection/injunctions do not meet the NCIC entry criteria and access to that information is not electronically available to NICS.

Senate Bill 1108 will allow the Department to access confidential mental health records to comply with statutes relating to purchase of weapons. While this bill may not be successful this year due to funding issues, all parties involved agree to the importance of this project and are working on a plan to implement it. Access to these records for weapons transfer will be available only to the Department.

The Department is working to comply with the Auditor General report recommendations to improve the Firearms Clearance Center. Compliance with these recommendations, coupled with the availability of additional information will help the Department provide a superior service in comparison to the FBI.

Moving the burden of providing this service to the FBI will save state funding, but will still cost taxpayers at the federal level. The cost of the program can be saved, if the legislature chooses to self-fund the unit through fees.

2. If the Legislature decides that DPS should retain this responsibility, it should consider providing DPS the statutory authority to recover its operating costs by assessing a nominal fee.

Through Self-Funding, DPS could develop a model program while saving the taxpayers \$650,000

Response

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

3. If the Legislature provides DPS the statutory authority to establish a fee, it should also consider providing DPS with the authority to establish a separate fund to account for the fees remitted to the program, and to be used to cover the program's operating expenditures.

Response

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

4. If the Legislature provides DPS the statutory authority to assess a fee for performing background checks, DPS should develop policies and procedures for collecting fees from licensed dealers.

Response

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

FINDING II

DPS SHOULD TAKE STEPS TO ENSURE THAT ONLY ELIGIBLE INDIVIDUALS CAN BUY GUNS

Recommendations

If the Legislature decides DPS should continue performing the background check function:

1. DPS should continue to allocate some of its existing staff positions to perform research as their primary responsibility on cases where DPS cannot immediately determine whether a person is eligible to purchase a gun.

Response

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

2. DPS should begin research cases immediately or as soon as practical on cases that require additional research to determine whether an individual is eligible to purchase a gun.

Response

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

3. DPS should use its files on previously denied cases to help it more efficiently complete its research.

Response

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

4. DPS should make a change to its computer system so that it will automatically notify staff when a prospective buyer was previously denied.

Response

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

5. DPS should seek legislative authority to allow it to delay the sale of a firearm from 3 to 30 days, and to indicate how it will resolve the cases that it cannot determine eligibility for within 30 days.

Response

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

6. DPS should develop procedures specifying a time frame for contacting firearms dealers when research is complete, and documenting that the contacts have been made.

Response

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

7. DPS should develop procedures for promptly notifying ATF when information indicates that an ineligible individual was sold a gun.

Response

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

8. DPS should establish administrative rules for responding to delayed and denied gun buyers' inquiries and appeals.

Response

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

FINDING III

DPS COULD STREAMLINE ITS SECURITY GUARD AND PRIVATE INVESTIGATOR APPLICATION PROCESS

Recommendations

1. To increase its efficiency DPS should change to a primarily mail-in application process for security guard and private investigator employees.

Response

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Concern

Funding to mail licenses to the agencies and applicants.

2. DPS should place a hold on future requests for additional staff until it has revised its process and reassessed its staffing needs.

Response

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

3. DPS should use some of the resources freed by a more efficient licensing process to enhance its oversight role performing tasks such as conducting regular site compliance visits and responding to complaints.

Response

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Concerns

Increased site compliance visits may require additional travel (in-state). Compensation would have to be reflected in the fiscal year budget.

FINDING IV

DPS COULD IMPROVE ITS SECURITY GUARD REGULATION PRACTICES

Recommendations

1. DPS should seek legislative authority to amend Title 32, Chapter 26, to:
 - a. Require security guard applicants to receive training before they receive a provisional certificate;
 - b. Establish the minimum amount of training required; and,
 - c. Include continuing education requirements for security guards.

Response

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Concerns

This recommendation places an increased burden on the industry. The financial impact could be considerable for small agencies.

2. DPS should complete state criminal history background checks before it provides provisional security guard certificates, pursuant to the authority granted under A.R.S. §41-1713.

Response

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Concerns

This will increase the time for agencies to hire personnel and will impact small agencies.

3. DPS should complete state criminal history background checks on security guards at least annually during the three-year certificate period, pursuant to the authority granted under A.R.S. §41-1713.

Response

The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Other Performance Audit Reports Issued Within the Last 12 Months

00-14	Arizona Department of Agriculture— State Agricultural Laboratory	01-02	Department of Economic Security— Healthy Families Program
00-15	Arizona Department of Agriculture— Commodity Development	01-03	Arizona Department of Public Safety—Drug Abuse Resistance Education (D.A.R.E.) Program
00-16	Arizona Department of Agriculture— Pesticide Compliance and Worker Safety Program	01-04	Arizona Department of Corrections—Human Resources Management
00-17	Arizona Department of Agriculture— Sunset Factors	01-05	Arizona Department of Public Safety—Telecommunications Bureau
00-18	Arizona State Boxing Commission	01-06	Board of Osteopathic Examiners in Medicine and Surgery
00-19	Department of Economic Security— Division of Developmental Disabilities	01-07	Arizona Department of Corrections—Support Services
00-20	Arizona Department of Corrections— Security Operations	01-08	Arizona Game and Fish Commission and Department—Wildlife Management Program
00-20	Universities—Funding Study	01-09	Arizona Game and Fish Commission—Heritage Fund
00-21	Annual Evaluation—Arizona’s Family Literacy Program		
01-01	Department of Economic Security— Child Support Enforcement		

Future Performance Audit Reports

Arizona Commission on the Arts

State Board of Chiropractic Examiners